

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

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SENT BY U.S. MAIL & EMAIL TO:

lbryant@courts.state.va.us

harveyASC@gmail.com

The Honorable Michael Garrett
Nelson County Circuit Court
PO Box 10
Lovingson, VA 22949

Chair Thomas D. Harvey
Nelson County Board of Supervisors
PO Box 336
Lovingson, VA 22949

Re: Unconstitutional Nelson County Courthouse Religious Display

Dear Judge Garrett, Chair Harvey, and Supervisors:

I am writing on behalf of the Freedom From Religion Foundation (“FFRF”) regarding the recently discovered “Keep God’s Commandments” display in the Nelson County Circuit Courtroom. FFRF is a national nonprofit organization with more than 28,000 members across the country, including more than 600 Virginia members. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that “Virtus Keep God’s Commandments Veritas” was recently revealed on the wood structure below the balcony in the Nelson County Circuit Courtroom. Reports indicate that the wording had been covered for more than 50 years. If the wording remains visible, we understand that the statement would face the judge and jury in the courtroom.

It is inappropriate and unconstitutional for the county government to display a message to “Keep God’s Commandments.”

The Establishment Clause of the First Amendment prohibits government advancement and endorsement of religious messages. The Supreme Court has explained that “the prohibition against governmental endorsement of religion ‘preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.’ *Cnty. of Allegheny v. ACLU Greater Pittsburgh Ch.*, 492 U.S. 573, 593 (1989). The

goal of this “endorsement test” is to ensure that the government does not “appear to take a position on questions of religious belief.” *Id.* at 594.

Given the size of the “Keep God’s Commandments” lettering and its prominent placement, a reasonable observer would view it as an endorsement of religion by the County. If the County does not remove or cover this wording, it is unmistakably placing its stamp of approval on the religious message.

In addition, the County lacks a secular purpose in displaying a message to “Keep God’s Commandments.” In *McCreary Cnty. v. ACLU*, 545 U.S. 844 (2005), the Supreme Court ruled that Ten Commandments displays in two Kentucky courthouses violated the Constitution. The Court discussed at length the requirement of government neutrality on matters of religion. The Court said, “The touchstone for our analysis is the principle that the ‘First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.’” *Id.* at 860 (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)); see also *Everson v. Bd. of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947), *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985). The Ten Commandments display was “an unmistakably religious statement dealing with religious obligations and with morality subject to religious sanction.” *Id.* at 869. The Court concluded, “When the government initiates an effort to place this statement alone in public view, a religious object is unmistakable.” *Id.* It is obvious that there is no secular purpose in calling for judges, jury members, and courtroom observers to “Keep God’s Commandments.”

This display is unlike other displays that have been allowed to stand. See *Van Orden v. Perry*, 545 U.S. 677 (2005). From the outset in *Van Orden*, Justice Breyer, who was the deciding vote, explained that a modern effort to display a religious statement would not receive the same validation:

And, in today’s world, in a Nation of so many different religious and comparable nonreligious fundamental beliefs, a more contemporary state effort to focus attention upon a religious text is certainly likely to prove divisive in a way that this longstanding, pre-existing monument has not.

Id. at 703. While the original “Keep God’s Commandments” lettering may date to the 19th century, that does not absolve the County from taking actions today that violate the Establishment Clause. Notably, it was reported that restoration work on the courthouse involved “carefully and painstakingly” removing old paint in order to uncover the lettering and some County Supervisors have expressed an interest in keeping the religious message. Such efforts to display a religious message are not akin to retaining a long-standing monument.

Citizens are frequently compelled to come to the Courthouse on important matters affecting their property, their freedom, and their quality of life. These citizens should not be made to feel offended, excluded, and like “outsiders, not full members of the political community” because the local government they support with their taxes oversteps its power by prominently displaying religious statements at the seat of government. *McCreary*, 545 U.S. at 860 (citations omitted). Religious belief and nonbelief is an intensely personal matter and it is not the government’s place to tell citizens whether to follow religious edicts.

Finally, the religious wording implicates not just the First Amendment, but also the ability of litigants to receive justice from an impartial jury and judiciary. Any court decision will have the stain of religious influence, which deprives citizens of their right to a fair trial. Any judge conducting proceedings in such an environment subjects himself or herself to violating the Canons of Judicial Conduct for the Commonwealth of Virginia.

We ask that you cover or remove this religious statement from the Courthouse. Please inform us in writing of the actions you are taking to remedy this violation. We look forward to a reply at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick C. Elliott". The signature is fluid and cursive, with a large initial "P" and "E".

Patrick C. Elliott
Staff Attorney

CC:

Board of Supervisors
cbrennan@nelsoncounty.org
orchards187@gmail.com
super@buteobooks.com
larrya5819@aol.com